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Attorneys for Defendant JPMorgan Chase Bank, N.A.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

Dennis Raybould,

Plaintiff,

v.

RUSHMORE LOAN MANAGEMENT
SERVICES, LLC;

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION, WHOSE ADDRESS IS 700
Kansas Lane, MC 8000, MONROE, LA 71203,
(ASSIGNOR),

RMAC TRUST, SERIES 2016-CTT,

U.S. BANK NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY BUT
SOLELY AS TRUSTEE FOR THE RMAC
TRUST, SERIES 2016-CTTT, whose address is
60 LIVINGSTON AVENUE, ST. PAUL, MN
55107-2292, ITS SUCCESSORS AND
ASSIGNS, (ASSIGNEE)

Defendants.

Case No. 6:19-cv-01364-AA

REQUEST FOR JUDICIAL NOTICE

LR 7-1 CERTIFICATE OF COMPLIANCE

Counsel for Defendant JPMorgan Chase Bank, N.A. (“Chase”) attempted to contact *pro se* plaintiff Dennis Raybould in a good faith effort to confer regarding the subject of this motion, as required under Local Rule 7-1. On September 11, 2019, September 12, 2019, and September 13, 2019, counsel called the phone number listed on plaintiff’s complaint, (541) 997-1311, and all three times received a message saying that number has been disconnected or is no longer in service. On both September 11, 2019 and September 12, 2019, counsel also emailed plaintiff at the most recent email address counsel has for plaintiff stating the basis for the request and asking plaintiff to call counsel or to provide a functioning phone number so that counsel could speak with plaintiff to confer, but counsel has received no response.

REQUEST FOR JUDICIAL NOTICE

Chase respectfully requests this Court to take Judicial Notice under Federal Rule of Evidence (“FRE”) 201 of the following documents, which are attached to the concurrently filed Declaration of Kevin H. Kono in Support of Request for Judicial Notice (“Kono Decl.”).

1. A recorded deed of trust dated February 1, 2006, under which Dennis Raybould and Diane Raybould granted a security interest to Chase Bank USA, N.A. in real property located at 88915 Bay Berry Lane, Florence, OR 97431, to secure loan obligations under the \$237,600 note referenced therein. Kono Decl., Ex. 1.
2. The complaint filed in Oregon state court and removed to this Court in *Raybould v. JP Morgan Chase Bank, N.A.*, United States District Court for the District of Oregon, Case No. 6:12-cv-01198-PA. Kono Decl., Ex. 2.
3. The complaint filed in Oregon state court and removed to this Court in *Raybould v. JP Morgan Chase Bank, N.A.*, United States District Court for the District of Oregon, Case No. 6:13-cv-01966-TC. Kono Decl., Ex. 3.

4. The Order Affirming Judgment filed in *Raybould v. JP Morgan Chase Bank, N.A.*, United States Court of Appeal for the Ninth Circuit, Case No. 15-35158. Kono Decl., Ex. 4.

5. The docket in *JPMorgan Chase Bank, National Association v. Raybould, et al.*, in the Circuit Court for the State of Oregon for the County of Lane, Case No. 15CV14566 (the “State Court Action”). Kono Decl., Ex. 5.

6. The complaint in the State Court Action. Kono Decl., Ex. 6.

7. The Second Amended Answer, Affirmative Defenses and Amended Counterclaims and Third-Party claims filed by plaintiff in the State Court Action. Kono Decl., Ex. 7.

8. The Order granting JPMorgan Chase Bank, N.A. and counter-defendants Chase Bank USA, N.A. and Chase Home Finance LLC’s Motions to Dismiss and to Strike Counter-Plaintiffs’ Counterclaims and Defenses in the State Court Action, without leave to amend. Kono Decl., Ex. 8.

9. The Order of Default entered in the State Court Action. Kono Decl., Ex. 9.

10. The Limited Judgment of Dismissal entered in the State Court Action. Kono Decl., Ex. 10.

11. JPMorgan Chase Bank, N.A.’s Motion for Summary Judgment filed in the State Court Action. Kono Decl., Ex. 11.

12. Plaintiff’s opposition to JPMorgan Chase Bank, N.A.’s Motion for Summary Judgment filed in the State Court Action. Kono Decl., Ex. 12.

13. The Order granting JPMorgan Chase Bank, N.A.’s motion for summary judgment in the State Court Action. Kono Decl., Ex. 13.

14. Plaintiff’s Adversary Complaint in Adversary Proceeding No. 17-06057-tmr, filed in the United States Bankruptcy Court for the District of Oregon, Eugene Division. Kono Decl., Ex. 14.

15. The docket in *Raybould v. Rushmore Loan Management Services LLC, et al.*, in the Circuit Court for the State of Oregon for the County of Lane, Case No. 19CV30797. Kono Decl., Ex. 15.

ARGUMENT

FRE 201 empowers the Court to take judicial notice of facts “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” FRE 201(b)(2). The Court “**must** take judicial notice if a party requests it and the court is supplied with the necessary information.” FRE 201(c)(2) (emphasis added). Judicial notice may be taken at any stage of the proceedings. FRE 201(d).

“Federal Rule of Evidence 201 allows the court to take judicial notice of orders and decisions made by other courts or administrative agencies.” *Rogers v. Qwest Corp.*, 2007 WL 1187986, *4 (D. Or. 2007) (citing *Papai v. Harbor Tug and Barge Co.*, 67 F.3d 203, 207 n.5 (9th Cir. 1995), *reversed on other grounds*, 520 U.S. 548 (1997)). Judicial notice of “undisputed matters of public record” and “documents on file in federal or state courts” is also proper. *Harris v. Cty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012); *see also MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) (taking judicial notice of a motion to dismiss together with a supporting memorandum filed in a separate matter); *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (“We may take judicial notice of court filings and other matters of public record.”). The Court may take judicial notice of and consider matters of public record “without being required to convert the Rule 12(b)(6) motion into a motion for summary judgment under Rule 56.” *Rose v. JP Morgan Chase Bank, N.A.*, 835 F. Supp. 2d 1014, 1018 (D. Or. 2011) (citing *Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th Cir. 2001)).

Judicial notice of the documents listed above is appropriate as they all appear in the public record as publicly recorded documents or as documents filed in a public court proceeding. These documents can be judicially noticed because they are public records, recorded by a public

body or contained in a public court file as part of public court proceedings, and their authenticity cannot be contested. The Court therefore should take judicial notice of the requested documents. *See, e.g. Schwartz v. Christiana Trust*, 2016 WL 3512441, *2 (D. Or. 2016) (taking judicial notice of a deed of trust and noting that FRE 201 “encompasses publically recorded property records”); *Paulson v. Fairway Am. Corp.*, 2015 WL 588851, *2 (D. Or. 2015) (taking judicial notice of “the docket sheets, pleadings, briefs, orders, and other documents filed as part of the official record in prior actions filed by or against Plaintiff.”).

DATED this 13th day of September, 2019.

DAVIS WRIGHT TREMAINE LLP

By s/ Kevin H. Kono

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Attorneys for Defendant JPMorgan Chase Bank, N.A.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **REQUEST FOR JUDICIAL NOTICE** on:

Dennis Raybould
P.O. Box 241
Florence, OR 97431
(541) 997-1311
Plaintiff in Pro Se

☒ by causing to be mailed a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said party's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said party's last-known address on the date set forth below; and/or

☐ by emailing a copy thereof to said party at his/her last-known email address as set forth above.

Dated this 13th day of September, 2019.

DAVIS WRIGHT TREMAINE LLP

By: s/ Kevin H. Kono

Kevin H. Kono, OSB #023528
Ashlee Aguiar, OSB #171940
Of Attorneys for Defendant JPMorgan Chase Bank,
N.A.